

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
STATE OF NEW YORK)	WT Docket No. 06-18
Request for Waiver of Section 90.545)	
Regarding 700 MHz Public Safety)	
System)	
Interference Protection for Co-Channel)	
and Adjacent-Channel TV Stations.		

To: The Commission

**COMMENTS OF THE REGION 39 700 MHZ REGIONAL PLANNING
COMMITTEE IN SUPPORT OF THE STATE OF NEW YORK REQUEST FOR
WAIVER OF
RULE 90.545**

Region 39 700 MHz Regional Planning Committee hereby submits comments in support of the State of New York filing (Docket 06-18) dated October 24, 2005 which requests a waiver to implement State License 700 MHz public safety radio spectrum in a new statewide communications system throughout the State of New York.

The Region 39 700 MHz Regional Planning Committee is an active representative body advocating the efficient and effective use of 700 MHz public safety spectrum consisting of public safety users in Region 39 (State of Tennessee). The Committee was formed in May, 2001 submitted a 700 MHz General Usage Plan

in December, 2005. The State of Tennessee holds a State Geographic License similar to that held by the State of New York, bearing call sign WPTZ797.

The Region 39 700 MHz RPC recognizes the needs for the State of New York request for waiver of Rule 90.545 as it is developing a public safety radio network utilizing their State Geographic License and is challenged by existing co-channel and adjacent channel digital television (DTV) incumbency throughout New York and in the Metropolitan New York area. It appears the State of New York has done sufficient engineering work to ensure that the development of a statewide 700 MHz public safety system will interfere with viewers at a minimum level, consistent with interference levels previously established by the Commission, utilizing existing TV Stations on channels 62,63,64,65,67,68 and 69.

1 Requested Waiver Satisfies the Requirements of Section 1.925 of the Commissions Rules

The State of New York outlines in their request for waiver that the requirement for adherence to the values in Rule 90.545 would hinder the development of the State Radio Network and that the minimal potential for interference to television reception is outweighed by the development of critical public safety communications development. The State of New York also indicates the granting of the waiver would be in the public interest, and the development of its statewide radio network can provide reliable, robust interoperable communications necessary to protect its

citizens. Improved communications capability will ensure the greatest degree of first responder capabilities and protection, which translates to the highest degree of safety of New York's citizens.

2 The Potential for Interference determined in this waiver request is consistent or Below Tolerable Station-to-Station Interference Levels Deemed Permissive and already Established by The Commission in 73.623 (c)

The potential for viewer interference as outlined by the State of New York in this waiver request is below the 2.0% outlined by the Commission as acceptable when considering interference thresholds between modified and existing DTV stations. The 2% *de minimis* standard established by the Commission has been utilized as a threshold to determine station-to-station interference impact during the DTV migration and since the State of New York has established that their development of a 700 MHz Statewide Public Safety Radio System could create TV channel interference below that level, the waiver should be granted to enable New York to pursue the development of its statewide radio system.

3 Percentage of households utilizing sole "over the air" TV reception on TV Channels 62,63,64,65,67,68,69 is low.

The percentage of households potentially experiencing interference in TV Channels 62,63,64,65,67,68,69 may not be viewers that rely solely on "over-the-air" TV reception. Recent studies highlighting the DTV transition show that while many households enjoy the programming of current analog TV Stations on the channels listed above, most viewers obtain programming in non-over the air methods and

often multiple TV reception mechanisms are utilized in a single dwelling. Typically, a small percentage of viewers in a given area solely utilize over the air TV reception, across both New York and the Nation, and those users historically represent a small percentage of their viewing areas. With this, while some users may experience a degree of interference potential in the development of the Statewide New York State Radio System, it should be noted that studies show most households are capable of obtaining access to necessary public warning/safety information (Civil Emergency Messages, Emergency Alert Messages and Child Abduction Messages etc.) via several communications mediums, in addition to over-the-air broadcast on the channels in question. Indeed, these important messages and notifications are today available in a multitude of applications accessible by citizens and viewers of the listening areas in an area of concern. Subsequently, the percentage of users that can potentially be impacted, even minimally, by the development of the New York Statewide Radio System is small.

TV reception methods outside of over-the-air broadcast methods are used in a large percentage of households in the State of New York, which reduces to an even greater degree the impact of 700 MHz public safety implementation and potential interference to existing broadcasters on the TV channels listed above. During the DTV transition, Region 39 concurs with the State of New York that the minimal effect of potential interference to a small group of viewers is outweighed by the need

for the State of New York's development of a robust secure, interoperable public safety communications network.

Region 39 applauds the State of New York on their initiative and resourcefulness in the request for this waiver to facilitate 700 MHz public safety interoperability throughout the State of New York. In addition, the engineering practices and tools developed by New York may allow additional 700 MHz public safety spectrum efficiencies and opportunities to be utilized in additional areas of the Nation during and up to the DTV transition date of February 17, 2009.

John W. Johnson, Chairman
REGION 39 700 MHz RPC

March 21, 2006